

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**UNITED STATES OF AMERICA, )**

**Plaintiff, )**

**v. )**

**CASE NO. 21-cv-03873-CAP**

**\$118,880.00 IN U.S. CURRENCY, )**

**Defendant. )**

**ANSWER TO PLAINTIFF’S VERIFIED COMPLAINT**

**BY BRUCE SMITH AND PRO D&B LOGISTICS, LLC**

COMES NOW, Claimants BRUCE SMITH (“Smith”) and PRO D&B LOGISTICS, LLC (“Pro D&B”) (collectively “Claimants”), by and through the undersigned counsel, and hereby answers and asserts affirmative defenses to Plaintiff United States of America’s verified complaint for forfeiture (the “Complaint”) and reserve their right to request dismissal of Complaint on any and all grounds. Unless expressly admitted, all allegations set forth in the Complaint are denied.

**RESPONSES TO PLAINTIFF’S ALLEGATIONS**

1. Paragraph 1 of the Complaint is ADMITTED.

2. Paragraph 2 of the Complaint is ADMITTED.

3. Claimants lack knowledge regarding the allegations contained in Paragraph 3 of the Complaint. Paragraph 3 is therefore DENIED.

4. Paragraph 4 of the Complaint is ADMITTED.

5. Paragraph 5 of the Complaint is ADMITTED.

6. Paragraph 6 of the Complaint is ADMITTED.

7. Paragraph 7 of the Complaint is DENIED.

8. Paragraph 8 of the Complaint is DENIED.

9. Paragraph 9 of the Complaint is DENIED.

10. Paragraph 10 of the Complaint is DENIED.

11. Paragraph 11 of the Complaint is DENIED.

12. Paragraph 12 of the Complaint is DENIED.

13. Paragraph 13 of the Complaint is DENIED.

14. Paragraph 14 of the Complaint is DENIED.

15. Paragraph 15 of the Complaint is DENIED.

16. Paragraph 16 of the Complaint is DENIED.

17. Paragraph 17 of the Complaint is DENIED.

18. Paragraph 18 of the Complaint is DENIED.

19. Paragraph 19 of the Complaint is DENIED.

20. Paragraph 20 of the Complaint is DENIED.
21. Paragraph 21 of the Complaint is DENIED.
22. Paragraph 22 of the Complaint is DENIED.
23. Paragraph 23 of the Complaint is DENIED.
24. Paragraph 24 of the Complaint is DENIED.
25. Paragraph 25 of the Complaint is DENIED.
26. Paragraph 26 of the Complaint is DENIED.
27. Paragraph 27 of the Complaint is DENIED.
28. Paragraph 28 of the Complaint is DENIED.
29. Paragraph 29 of the Complaint is DENIED.
30. Paragraph 30 of the Complaint is DENIED.
31. Paragraph 31 of the Complaint is DENIED.
32. Paragraph 32 of the Complaint is DENIED.
33. Paragraph 33 of the Complaint is DENIED.
34. Paragraph 34 of the Complaint is DENIED.
35. Paragraph 35 of the Complaint is DENIED.
36. Paragraph 36 of the Complaint is DENIED.
37. Paragraph 37 of the Complaint is DENIED.
38. Paragraph 38 of the Complaint is DENIED.

- 39. Paragraph 39 of the Complaint is DENIED.
- 40. Paragraph 40 of the Complaint is DENIED.
- 41. Paragraph 41 of the Complaint is DENIED.
- 42. Paragraph 42 of the Complaint is DENIED.
- 43. Paragraph 43 of the Complaint is DENIED.
- 44. Paragraph 44 of the Complaint is DENIED.
- 45. Paragraph 45 of the Complaint is DENIED.
- 46. Paragraph 46 of the Complaint is DENIED.
- 47. Paragraph 47 of the Complaint is DENIED.
- 48. Paragraph 48 of the Complaint is DENIED.
- 49. Paragraph 49 of the Complaint is DENIED.
- 50. Paragraph 50 of the Complaint is DENIED.
- 51. Paragraph 51 of the Complaint is DENIED.
- 52. Paragraph 52 of the Complaint is DENIED.
- 53. Paragraph 53 of the Complaint is DENIED.
- 54. Paragraph 54 of the Complaint is DENIED.
- 55. Paragraph 55 of the Complaint is DENIED.
- 56. Paragraph 56 of the Complaint is DENIED.
- 57. Paragraph 57 of the Complaint is DENIED.

- 58. Paragraph 58 of the Complaint is DENIED.
- 59. Paragraph 59 of the Complaint is DENIED.
- 60. Paragraph 60 of the Complaint is DENIED.
- 61. Paragraph 61 of the Complaint is DENIED.
- 62. Paragraph 62 of the Complaint is DENIED.
- 63. Paragraph 63 of the Complaint is DENIED.
- 64. Paragraph 64 of the Complaint is DENIED.
- 65. Paragraph 65 of the Complaint is DENIED.
- 66. Paragraph 66 of the Complaint is DENIED.
- 67. Paragraph 67 of the Complaint is DENIED.
- 68. The claims made in Plaintiff's "Verification of Complaint for Forfeiture" are also DENIED.

### **AFFIRMATIVE DEFENSES**

69. Claimants repeat the denials and affirmations of the allegations set forth in paragraphs 1 through 68 of this Answer as though fully set forth herein. In addition, Claimants raise the following numbered defenses to the Complaint:

#### **FIRST DEFENSE: FAILURE TO STATE A CLAIM**

The Complaint fails to state a claim upon which relief may be granted.

**SECOND DEFENSE: THERE IS NO PROBABLE CAUSE FOR  
FORFEITURE OF THE DEFENDANT PROPERTY UNDER ANY  
FEDERAL FORFEITURE STATUTE**

There is no probable cause for belief that a substantial connection (or nexus) exists between the Defendant Property sought to be forfeited and any unlawful conduct, act, or omission that would give rise to forfeiture under a federal forfeiture statute.

**THIRD DEFENSE: INNOCENT OWNER PURSUANT TO 18 USC §983(d)**

Claimants are innocent owners pursuant to 18 USC §983(d) who were not aware of any conduct giving rise to forfeiture of the Defendant Property. Therefore, they are entitled to a full return of the Defendant Property.

**FOURTH DEFENSE: EXCESSIVE FINES**

The forfeiture of the Defendant Property would be a grossly disproportionate and excessive punishment in violation of the Eight Amendment's Excessive Fines Clause and *Austin v. United States*, 509 U.S. 602 (1993).

WHEREFORE, Claimants pray that the Honorable Court will:

a. Enter judgment on behalf of Claimants and order the Plaintiff to return the Defendant Property to Claimants.

- b. Deny issuance of a certificate of reasonable cause pursuant to 28 *U.S.C.* §2465 and award attorney's fees, costs, and interest to Claimants; and
- c. Provide such other and further relief, both legal and equitable, as the Court deems proper and just.

**DEMAND FOR JURY TRIAL**

- 70. Claimants demands a jury trial.

**RESERVATION OF RIGHTS**

71. Claimants presently have insufficient knowledge or information upon which to form a belief as to whether there may be other, as yet unstated, defenses available to Claimants, and they therefore expressly reserve, in accordance with applicable law, the right to amend or supplement his Answer, defenses and all other pleadings, and the right to assert any and all other additional and further defenses as appropriate, including defenses that may be revealed by discovery or otherwise.

DATED: December 7, 2021

Respectfully Submitted,

**Law Offices of Brian Silber, P.A.**

*/s/ Brian Silber*

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**Brian Silber, Esq.**

Counsel for Bruce Smith and  
Pro D&B Logistics, LLC  
Pro Hac Vice

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**Wessels & Gerber, PC**

*/s/ Sanford Gerber*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of this document was served on the following parties via CM/ECF on December 7, 2021.

**SERVICE LIST**

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